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Ser. No.: 10/649,467

Filing Date: August 27, 2003

Docket No. ISIS0085-100

(ISIS-2960US.C2)

Matter No.: 138500

Title: Oligonucleotides And Generation Of Oligonucleotides For  
Gene Modulation

Pages to Follow: 3

Sender's Name: Paul K. Legaard

Date: January 17, 2006

RECIPIENT(S)	COMPANY/FIRM	FAX
Anna Skibinsky	USPTO	(571) 273-8300

MESSAGE: OFFICIAL FAX

PLEASE DELIVER TO EXAMINER ANNA SKIBINSKY  
ATTACHED IS:

1. Transmittal Form (1 page)
2. Response to Restriction Requirement (2 pages)

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/649,467
	Filing Date	August 27, 2003
	First Named Inventor	Lex M. Cowser
	Art Unit	1631
	Examiner Name	Anna Skibinsky
Total Number of Pages in This Submission	Attorney Docket Number	ISIS0085-100 (ISIS-2960US.C2)

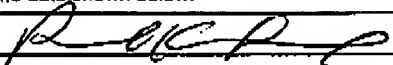
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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	Cozen O'Connor, P.C.		
Signature			
Printed Name	Paul K. Legaard		
Date	January 17, 2006	Reg. No.	38,534

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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Cowsert, Baker, McNeil, Freier, Sasmor, Brooks, Ohashi, Wyatt, Borchers, and  
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Serial No.: 10/649,467

Group Art Unit: 1631

JAN 17 2006

Filed: August 27, 2003

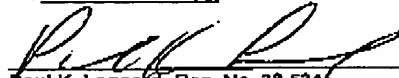
Examiner: Anna Skibinsky

Title: OLIGONUCLEOTIDES AND GENERATION OF OLIGONUCLEOTIDES FOR  
GENE MODULATION

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

## RESPONSE TO THE RESTRICTION REQUIREMENT

The present Response is filed in regard to the Restriction Requirement mailed December 16, 2005 in connection with the above-identified patent application.

The Examiner has mistakenly restricted claims 1-45 into six (6) groups. Applicants elect Group II, containing claims 18-32, with traverse. Applicants also elect Species A2 (Specie D), Species B1 (Specie E), and Species C2 (Specie F) with traverse.

The Office Action asserts that Groups I-VI are unrelated. Even if the Office Action still considers the six groups of claims to be patentably distinct, §803 of the M.P.E.P. mandates two criteria for a proper requirement for restriction: 1) the inventions must be independent or distinct; and 2) there must be a serious burden on the examiner. For purposes of initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search

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as defined in M.P.E.P. §808.02. Significantly, the Examiner has not met the *prima facie* burden. Indeed, the Examiner has not shown separate status in the art or a requirement for a different field of search. Further, each of the six groups of claims has, in fact, been classified into identical classes (class 702) and subclass (subclass 19), thus, strongly indicating a lack of serious burden. Accordingly, claims 1-45 should be examined together in the present application without restriction.

If the Office Action persists in applying the present restriction, Applicants presume that any prior art that is found relating to a non-elected group, to the extent that such prior art exists, will not be used in an obviousness rejection against a claim from any other group.

Applicants submit that the present response is complete and complies with the requirements of 35 U.S.C. §121. In addition, Applicants submit that, at a minimum, claims 1-45 must be considered in the present application without restriction.

Respectfully submitted,



Paul K. Legaard  
Registration No. 38,534

Date: 17 January 2006

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